

Court No. - 83

Case :- WRIT - A No. - 7668 of 2020

Petitioner :- Amit Kumar

Respondent :- State Of U.P. And 3 Others

Counsel for Petitioner :- Atipriya Gautam, Vijay Gautam (Senior Adv.), Vinod Kumar Mishra

Counsel for Respondent :- C.S.C.

Hon'ble Ajay Bhanot, J.

Heard Sri Devesh Mishra, learned counsel for the petitioner and learned Standing Counsel for the respondents.

The petitioner is a Police Inspector. The petitioner is seeking quashing of the departmental charge sheet dated 02.06.2020 issued under Rule 14(1) of the U.P. Police Officer of Subordinate Ranks (Punishment and Appeal) Rules, 1991.

According to the petitioner a criminal case, registered as Case Crime No. 02 of 2020, under Sections 376, 313, 323, 504, 506 I.P.C. and 67(A) I.T. Act of Prevention of Corruption Act, 1988, at Police Station Mahila Thana, District Varanasi is pending against him, therefore, during the pendency of criminal proceedings departmental charge sheet should have been stayed. In the understanding of the petitioner, criminal proceedings and the disciplinary proceedings are based on the same set of facts and evidences. According to him continuance of the disciplinary proceedings during the pendency of the criminal trial will prejudice his defence in the criminal trial.

The stay of departmental proceedings, on the mere ground of pendency of a criminal case is not automatic. The issue has to be examined by the competent authority.

The Hon'ble Supreme Court in **M/s Startzen Toyotetsu India P. Ltd., vs. Girish and others** reported at **JT 2014 (2) SC 462**, held as under:-

"no legal bar for both proceedings to go on simultaneously unless there is a likelihood of the employee suffering prejudice in the criminal trial. What is significant is that the likelihood of prejudice itself is hedged by providing that not only should be the charge be grave but even the case must involve complicated questions of law and fact. Stay of proceedings at any rate cannot and should not be a matter of course".

This writ petition is therefore **disposed of** with a direction to the respondent no. 3, Presiding Officer/S.P. City, Varanasi, to take a decision in the matter in light of the judgement **M/s Startzen Toyotetsu India P.Ltd. (supra)** within a period of three months from the date of production of a computer

generated copy of this order, downloaded from the official website of the High Court Allahabad.

The computer generated copy of such order be self attested by the petitioner (party concerned) along with a self attested identity proof of the said person (preferably Aadhar Card) mentioning the mobile number to which the said Aadhar Card is linked. The Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

Order Date :- 30.9.2020

Pravin